

Calendar No. 329

104TH CONGRESS
2D SESSION

S. 814

[Report No. 104–227]

To provide for the reorganization of the Bureau of Indian Affairs, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 17 (legislative day, MAY 15), 1995

Mr. MCCAIN (for himself, Mr. INOUE, Mr. DOMENICI, and Mr. THOMAS) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

Reported by Mr. MCCAIN, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To provide for the reorganization of the Bureau of Indian
Affairs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE, TABLE OF CONTENTS, AND DEFINITIONS.**
4

5 (a) ~~SHORT TITLE.~~—This Act may be cited as the
6 “Bureau of Indian Affairs Reorganization Act of 1995”.

1 (b) TABLE OF CONTENTS.—The table of contents for
2 this Act is as follows:

Sec. 1. Short title, definitions, and table of contents.

TITLE I—REORGANIZATION COMPACTS

Sec. 101. Reorganization of area offices.
Sec. 102. Reorganization of agency offices.
Sec. 103. Reorganization of central office.
Sec. 104. Savings provisions.
Sec. 105. Additional conforming amendments.
Sec. 106. Authorization of appropriations.
Sec. 107. Effective date.
Sec. 108. Separability.
Sec. 109. Suspension of certain administrative actions.
Sec. 110. Statutory construction.

TITLE II—AMENDMENT TO THE INDIAN SELF-DETERMINATION ACT

Sec. 201. Budget development.

TITLE III—REFORM OF THE REGULATIONS OF THE BUREAU OF INDIAN AFFAIRS

Sec. 301. BIA Manual.
Sec. 302. Task force.
Sec. 303. Authorization of appropriations.

3 (c) DEFINITIONS.—For purposes of this Act, the fol-
4 lowing definitions shall apply:

5 (1) AREA OFFICE.—The term “area office”
6 means 1 of the 12 area offices of the Bureau of In-
7 dian Affairs.

8 (2) AREA OFFICE PLAN.—The term “area office
9 plan” means a plan for the reorganization of an area
10 office negotiated by the Secretary and Indian tribes
11 pursuant to section 101.

12 (3) AGENCY OFFICE.—The term “agency of-
13 fice” means an agency office of the Bureau of In-
14 dian Affairs.

1 (4) AGENCY OFFICE PLAN.—The term “agency
2 office plan” means a plan for the reorganization of
3 an agency office negotiated by the Secretary and In-
4 dian tribes pursuant to section 102.

5 (5) BIA MANUAL.—The term “BIA Manual”
6 means the most recent edition of the Bureau of In-
7 dian Affairs Manual issued by the Department of
8 the Interior.

9 (6) BUREAU.—The term “Bureau” means the
10 Bureau of Indian Affairs.

11 (7) CENTRAL OFFICE.—The term “central of-
12 fice” means the central office of the Bureau, that is
13 housed in the offices of the Department in Washing-
14 ton, D.C. and in Albuquerque, New Mexico.

15 (8) CENTRAL OFFICE PLAN.—The term
16 “central office plan” means the plan for the reorga-
17 nization of the central office negotiated by the Sec-
18 retary and Indian tribes pursuant to section 103.

19 (9) DEPARTMENT.—The term “Department”
20 means the Department of the Interior.

21 (10) DIRECTOR.—The term “Director” means,
22 with respect to an area office, the Director of the
23 area office.

1 (11) ~~FUNCTION.~~—The term “function” means
 2 any duty, obligation, power, authority, responsibility,
 3 ~~right, privilege, activity, or program.~~

4 (12) ~~INDIAN TRIBE.~~—The term “Indian tribe”
 5 has the same meaning as in section 4(e) of the In-
 6 dian Self-Determination and Education Assistance
 7 Act (25 U.S.C. 450b(e)).

8 (13) ~~SECRETARY.~~—The term “Secretary”
 9 means the Secretary of the Interior.

10 (14) ~~SUPERINTENDENT.~~—The term “Super-
 11 intendent” means the Superintendent of an agency
 12 office.

13 (15) ~~TRIBAL PRIORITY ALLOCATION AC-~~
 14 ~~COUNT.~~—The term “tribal priority allocation ac-
 15 count”, means an account so designated by the Bu-
 16 reau, with respect to which program priorities and
 17 funding levels are established by individual Indian
 18 tribes.

19 (16) ~~TRIBAL RECURRING BASE FUNDING.~~—The
 20 term “tribal recurring base funding” means recur-
 21 ring base funding (as defined and determined by the
 22 Secretary) for the tribal priority allocation accounts
 23 of an Indian tribe allocated to a tribe by the Bureau.

TITLE I—REORGANIZATION COMPACTS

SEC. 101. REORGANIZATION OF AREA OFFICES.

(a) IN GENERAL.—Notwithstanding any other provision of law, not later than 120 days after the date of enactment of this Act, the Secretary shall enter into negotiations with the Indian tribes served by each area office to prepare a reorganization plan for the area office.

(b) CONTENTS OF AREA OFFICE PLANS.—

(1) IN GENERAL.—Each area office plan that is prepared pursuant to this subsection shall provide for the organization of the area office covered under the plan. To the extent that the majority of Indian tribes served by the area office do not exercise the option to maintain current organizational structures, functions, or funding priorities pursuant to paragraph (2), the reorganization plan shall provide, with respect to the area office covered under the plan, for—

(A) the reorganization of the administrative structure of the area office;

(B) the reallocation of personnel (including determinations of office size and functions);

(C) the delegation of authority of the Secretary to the Director;

1 ~~(D)~~ transfers of functions;

2 ~~(E)~~ the specification of functions—

3 (i) retained by the Bureau; or

4 (ii) transferred to Indian tribes served
5 by the area office;

6 ~~(F)~~ the issuance of waivers or other au-
7 thorities by the Secretary so that functions and
8 other responsibilities of the Secretary may be
9 carried out by the area office or transferred to
10 Indian tribes;

11 ~~(G)~~ the promulgation of revised regulations
12 relating to the functions of the area office that
13 are performed by the area office or transferred
14 to Indian tribes;

15 ~~(H)~~ the reordering of funding priorities;
16 and

17 ~~(I)~~ a formula for the transfer, to the tribal
18 recurring base funding for each Indian tribe
19 served by the area office, of unexpended bal-
20 ances of appropriations and other Federal
21 funds made available to the area office in con-
22 nection with any function transferred to Indian
23 tribes pursuant to subparagraph ~~(E)~~(ii).

24 ~~(2)~~ SHARE OF FUNDING.—An area office plan
25 may include, for each Indian tribe served by the area

1 office, a determination of the share of the Indian
 2 tribe of the funds used by the area office to carry
 3 out programs, services, functions and activities of
 4 the tribe (referred to in this subsection as the “trib-
 5 al share”).

6 (3) OPTION OF MAINTENANCE OF CURRENT
 7 STATUS.—At the option of a majority of the Indian
 8 tribes served by an area office, a reorganization plan
 9 may provide for the continuation of organizational
 10 structures, functions, or funding priorities of the
 11 area office that are substantially similar to those in
 12 effect at the time of the development of the area of-
 13 fice plan.

14 (4) APPROVAL OF AREA OFFICE PLAN BY IN-
 15 DIAN TRIBES.—Upon completion of the negotiation
 16 of an area office plan, the Secretary shall submit the
 17 plan to the Indian tribes served by the area office
 18 for approval. If a majority of the Indian tribes ap-
 19 prove the area office plan by a tribal resolution pur-
 20 suant to the applicable procedures established by the
 21 Indian tribes, the Secretary shall enter into a reor-
 22 ganization compact pursuant to subsection (c).

23 (5) SINGLE TRIBE AREA OFFICE.—In an area
 24 office that serves only 1 Indian tribe, if the tribe
 25 elects to develop a reorganization plan for the area

1 office, the Secretary shall enter into negotiations
 2 with the tribe to prepare a reorganization plan for
 3 the area office. Not later than 60 days after the date
 4 on which a reorganization plan referred to in the
 5 preceding sentence is approved by the Indian tribe,
 6 the Secretary shall enter into a reorganization com-
 7 pact with the tribe to carry out the area office plan.

8 (6) OPTION TO TAKE TRIBAL SHARE.—

9 (A) IN GENERAL.—If a majority of the In-
 10 dian tribes served by an area office fail to ap-
 11 prove an area office plan, an Indian tribe may
 12 elect to receive directly the tribal share of the
 13 Indian tribe.

14 (B) DETERMINATION OF TRIBAL SHARE.—

15 If an Indian tribe elects to receive a tribal share
 16 under subparagraph (A), the Secretary shall
 17 enter into negotiations with the Indian tribe to
 18 determine the tribal share of the Indian tribe.

19 (C) AGREEMENT.—Upon the determina-
 20 tion of a tribal share of an Indian tribe under
 21 subparagraph (B), the Secretary shall enter
 22 into an agreement with the Indian tribe for
 23 transferring directly to the Indian tribe an
 24 amount equal to the tribal share. The agree-
 25 ment shall include—

(i) a determination of the amount of residual Federal funds to be retained by the Secretary for the area office; and

(ii) the responsibilities of—

(I) the area office; and

(II) the Indian tribe.

(c) AREA OFFICE REORGANIZATION COMPACT.—

(1) IN GENERAL.—Not later than 60 days after the date on which a majority of the Indian tribes served by the area office that is the subject of a reorganization plan have approved the plan pursuant to subsection (b)(3), the Secretary shall enter into an area office reorganization compact with the Indian tribes to carry out the area office plan (referred to in this subsection as the “area office reorganization compact”). The Secretary may not implement the area office plan until such time as the Indian tribes have entered into an area office reorganization compact with the Secretary pursuant to this paragraph. If the Indian tribes do not enter into an area office reorganization compact with the Secretary pursuant to this paragraph, the organizational structure, functions, and funding priorities of the area office in effect at the time of the development of the area office plan shall remain in effect.

1 (2) PROHIBITION AGAINST CERTAIN LIMITA-
 2 TIONS.—With respect to an Indian tribe that is not
 3 a party to an area office reorganization compact en-
 4 tered into by the Secretary under this subsection,
 5 nothing in this section may limit or reduce the level
 6 of any service or funding that the Indian tribe is en-
 7 titled to pursuant to applicable Federal law (includ-
 8 ing any contract that the Indian tribe is entitled to
 9 enter into pursuant to applicable Federal law).

10 **SEC. 102. REORGANIZATION OF AGENCY OFFICES.**

11 (a) IN GENERAL.—Notwithstanding any other provi-
 12 sion of law, not later than 120 days after the date of en-
 13 actment of this Act, the Secretary, acting through the Su-
 14 perintendent (or a designee of the Superintendent) of each
 15 agency office, shall enter into negotiations with the Indian
 16 tribes served by each agency office to prepare an agency
 17 office plan for each agency office.

18 (b) CONTENTS OF AGENCY OFFICE PLANS.—

19 (1) IN GENERAL.—Each agency office plan that
 20 is prepared by the Secretary pursuant to this sub-
 21 section shall provide for the organization of the
 22 agency office covered under the plan. To the extent
 23 that the majority of Indian tribes served by the
 24 agency office do not exercise the option to maintain
 25 current organizational structures, functions, or fund-

1 ing priorities pursuant to paragraph (2), the agency
2 office plan shall provide, with respect to the agency
3 office covered under the agency office plan, for—

4 (A) the reorganization of the administra-
5 tive structure of the agency office;

6 (B) the reallocation of personnel (including
7 determinations of office size and functions);

8 (C) the delegation of authority of the Sec-
9 retary to the Superintendent;

10 (D) transfers of functions;

11 (E) the specification of functions—

12 (i) retained by the Bureau; or

13 (ii) transferred to Indian tribes served
14 by the agency office;

15 (F) the issuance of waivers or other au-
16 thorities by the Secretary so that functions and
17 other responsibilities of the Secretary may be
18 carried out by the agency office or transferred
19 to Indian tribes;

20 (G) the promulgation of revised regulations
21 relating to the functions of the agency office
22 that are carried by the agency office or trans-
23 ferred to Indian tribes;

24 (H) the reordering of funding priorities;

25 and

(I) a formula for the transfer, to the tribal recurring base funding for each Indian tribe served by the agency office, of unexpended balances of appropriations and other Federal funds made available to the agency office in connection with any function transferred to Indian tribes pursuant to subparagraph (E)(ii).

(2) SHARE OF FUNDING.—An agency office plan may include, for each Indian tribe served by the agency office, a determination of the share of the Indian tribe of the funds used by the agency office to carry out programs, services, functions and activities of the tribe (referred to in this subsection as the “tribal share”).

(3) OPTION OF MAINTENANCE OF CURRENT STATUS.—At the option of a majority of the Indian tribes served by an agency office, an agency office plan may provide for the continuation of organizational structures, functions, or funding priorities of the agency office that are substantially similar to those in effect at the time of the development of the agency office plan.

(4) APPROVAL OF AGENCY OFFICE PLAN BY INDIAN TRIBES.—Upon completion of the negotiation of an agency office plan, the Secretary shall submit

1 the agency office plan to the Indian tribes served by
 2 the agency office for approval. If a majority of the
 3 Indian tribes approve the agency office plan by a
 4 tribal resolution pursuant to the applicable proce-
 5 dures established by the Indian tribes, the Secretary
 6 shall enter into a reorganization compact pursuant
 7 to subsection (c).

8 (5) SINGLE TRIBE AGENCY OFFICE.—In an
 9 agency office that serves only 1 Indian tribe, if the
 10 tribe elects to develop a reorganization plan for the
 11 agency office, the Secretary shall enter into negotia-
 12 tions with the tribe to prepare a reorganization plan
 13 for the agency office. Not later than 60 days after
 14 the date on which a reorganization plan referred to
 15 in the preceding sentence is approved by the Indian
 16 tribe, the Secretary shall enter into a reorganization
 17 compact with the tribe to carry out the agency office
 18 plan.

19 (6) OPTION TO TAKE TRIBAL SHARE.—

20 (A) IN GENERAL.—If a majority of the In-
 21 dian tribes served by an agency office fail to ap-
 22 prove an agency office plan, an Indian tribe
 23 may elect to receive directly the tribal share of
 24 the Indian tribe.

~~(B) DETERMINATION OF TRIBAL SHARE.—~~

If an Indian tribe elects to receive a tribal share under subparagraph (A), the Secretary shall enter into negotiations with the Indian tribe to determine the tribal share of the Indian tribe.

~~(C) AGREEMENT.—~~Upon the determination of a tribal share of an Indian tribe under subparagraph (B), the Secretary shall enter into an agreement with the Indian tribe for transferring directly to the Indian tribe an amount equal to the tribal share. The agreement shall include—

(i) a determination of the amount of residual Federal funds to be retained by the Secretary for the agency office; and

(ii) the responsibilities of—

(I) the agency office; and

(II) the Indian tribe.

~~(c) AGENCY OFFICE REORGANIZATION COMPACTS.—~~

~~(1) IN GENERAL.—~~Not later than 60 days after the date on which a majority of the Indian tribes served by the agency office that is the subject of an agency office plan have approved the agency office plan pursuant to subsection (b)(3), the Secretary shall enter into a reorganization compact with the

1 Indian tribes to carry out the agency office plan (re-
 2 ferred to in this subsection as the “agency office re-
 3 organization compact”). The Secretary may not im-
 4 plement the agency office plan until such time as the
 5 Indian tribes have entered into an agency office re-
 6 organization compact with the Secretary pursuant to
 7 this paragraph. If the Indian tribes do not enter into
 8 an agency office reorganization compact with the
 9 Secretary pursuant to this paragraph, the organiza-
 10 tional structure, functions, and funding priorities of
 11 the agency office in effect at the time of the develop-
 12 ment of the agency office plan shall remain in effect.

13 (2) PROHIBITION AGAINST CERTAIN LIMITA-
 14 TIONS.—With respect to an Indian tribe that is not
 15 a party to an agency office reorganization compact
 16 entered into under this subsection, nothing in this
 17 section may limit or reduce the level of any service
 18 or funding that the Indian tribe is entitled to pursu-
 19 ant to applicable Federal law (including any contract
 20 that the Indian tribe is entitled to enter into pursu-
 21 ant to applicable Federal law).

22 (3) COORDINATION WITH AREA OFFICE
 23 PLANS.—Each agency office reorganization compact
 24 entered into by the Secretary under this subsection
 25 shall specify that in the event that the Secretary de-

1 termines that the agency office reorganization com-
 2 pact is inconsistent with an area office reorganiza-
 3 tion compact entered into under section 101(e), the
 4 Secretary, in consultation with the Indian tribes that
 5 are parties to the compact, shall make such amend-
 6 ments to the agency office reorganization compact
 7 entered into under this subsection as are necessary
 8 to ensure consistency with the applicable area office
 9 plan.

10 **SEC. 103. REORGANIZATION OF CENTRAL OFFICE.**

11 (a) IN GENERAL.—Notwithstanding any other provi-
 12 sion of law, not later than 120 days after the date of en-
 13 actment of this Act, the Secretary shall enter into negotia-
 14 tions with Indian tribes to develop a central office plan.
 15 In developing the plan, the Secretary shall enter into nego-
 16 tiations on an area-by-area basis with a representative
 17 from each of the Indian tribes in each area, to determine
 18 the appropriate allocation of personnel and funding made
 19 available to the central office to serve the area and agency
 20 offices and Indian tribes in each area office.

21 (b) CONTENT OF CENTRAL OFFICE PLAN.—

22 (1) IN GENERAL.—The central office plan shall
 23 provide for determinations by the Secretary, on the
 24 basis of the negotiations described in subparagraph
 25 (a), concerning—

(A) which portion of the funds made available to the Secretary for the central office shall—

(i) be used to support the area and agency offices in each area; and

(ii) be considered excess funds that may be allocated directly to Indian tribes in each area pursuant to a formula developed pursuant to paragraph (2)(J); and

(B) the allocation of the personnel of the central office to provide support to the area and agency offices.

(2) REALLOCATION OF FUNDS AND PERSONNEL.—In developing the central office plan, to the extent that the Secretary and the Indian tribes do not exercise the option to maintain current organizational structures, functions, or funding priorities, the central office plan shall provide, to the extent necessary to accommodate the determinations made under paragraph (1), for—

(A) the reorganization of the administrative structure of the central office;

(B) the reallocation of personnel (including determinations of office size and functions);

1 (C) the delegation of authority of the Sec-
2 retary carried out through the central office to
3 the Directors, Superintendents, or Indian
4 tribes;

5 (D) transfers of functions;

6 (E) the specification of functions—

7 (i) retained by the central office; or

8 (ii) transferred to area offices, agency
9 offices or Indian tribes;

10 (F) the issuance of waivers or other au-
11 thorities by the Secretary so that functions and
12 other responsibilities of the Secretary may be
13 carried out by the central office or transferred
14 to area offices, agency offices, or Indian tribes;

15 (G) the promulgation of revised regulations
16 relating to the functions of the central office
17 that are carried by the central office or trans-
18 ferred to area offices, agency offices, or Indian
19 tribes;

20 (H) the reordering of funding priorities;

21 (I) allocation formulas to provide for the
22 remaining services to be provided to the area
23 and agency offices and Indian tribes by the
24 central office; and

1 ~~(J)~~ with respect to the allocation of funds
 2 to the area and agency offices and Indian tribes
 3 in each area; a formula; negotiated with the
 4 tribal representatives identified in subsection
 5 ~~(a)~~; for the allocation to the Indian tribes of a
 6 portion of excess funds described in paragraph
 7 ~~(1)(A)(ii)~~.

8 ~~(c)~~ CENTRAL OFFICE REORGANIZATION COM-
 9 PACTS.—

10 ~~(1)~~ IN GENERAL.—Not later than 60 days after
 11 the Secretary develops a central office plan pursuant
 12 to subsection ~~(a)~~; the Secretary shall, for each area
 13 office, enter into a central office reorganization com-
 14 pact with the Indian tribes in that area to imple-
 15 ment the central office plan (referred to in this sub-
 16 section as the “central office reorganization com-
 17 pact”). The Secretary may not implement the com-
 18 ponent of a central office plan relating to an area
 19 until such time as a majority of the Indian tribes in
 20 that area have entered into a central office reorga-
 21 nization compact. If a majority of the Indian tribes
 22 in an area do not enter into a central reorganization
 23 compact with the Secretary pursuant to this para-
 24 graph, the organizational structure, functions, and
 25 funding priorities of the central office relating to the

1 area and agency offices and Indian tribes in that
 2 area and in effect at the time of the development of
 3 the central office plan shall remain in effect.

4 (2) COORDINATION WITH AREA AND AGENCY
 5 OFFICE PLANS.—Each central office reorganization
 6 compact entered into by the Secretary under this
 7 subsection shall specify that in the event the Sec-
 8 retary determines that a central office reorganiza-
 9 tion compact is inconsistent with a related area of-
 10 fice reorganization compact entered into under sec-
 11 tion 101(e) or a related agency office reorganization
 12 compact entered into under section 102(e), the Sec-
 13 retary, in consultation with the Indian tribes that
 14 are parties to the central office reorganization com-
 15 pact, shall amend the compact to make such modi-
 16 fications as are necessary to ensure consistency with
 17 the applicable area or agency office plan.

18 **SEC. 104. SAVINGS PROVISIONS.**

19 (a) IN GENERAL.—All orders, determinations, rules,
 20 regulations, permits, agreements, grants, contracts, cer-
 21 tificates, licenses, registrations, privileges, and other ad-
 22 ministrative actions—

23 (1) that have been issued, made, granted, or al-
 24 lowed to become effective by the President, any Fed-
 25 eral agency or official thereof, or by a court of com-

1 petent jurisdiction, in the performance of any func-
 2 tion that is transferred to Indian tribes pursuant to
 3 a reorganization compact that the Secretary enters
 4 into pursuant to section 101, 102, or 103; and

5 (2) that are in effect on the effective date of the
 6 reorganization compact, or were final before the ef-
 7 fective date of the reorganization compact and are to
 8 become effective on or after such date;

9 shall continue in effect according to their terms until
 10 modified, terminated, superseded, set aside, or revoked in
 11 accordance with law by the President, the Secretary, or
 12 other authorized official, a court of competent jurisdiction,
 13 or by operation of law.

14 (b) PROCEEDINGS NOT AFFECTED.—

15 (1) IN GENERAL.—The provisions of a reorga-
 16 nization compact that the Secretary enters into pur-
 17 suant to section 101, 102, or 103 shall not affect
 18 any proceedings, including notices of proposed rule-
 19 making, or any application for any license, permit,
 20 certificate, or financial assistance pending before the
 21 Bureau at the time the reorganization compact takes
 22 effect, with respect to the functions transferred by
 23 the reorganization compact.

24 (2) CONTINUATION OF PROCEEDINGS.—The
 25 proceedings and applications referred to in para-

1 graph (1) shall be continued. Orders shall be issued
 2 in such proceedings; appeals shall be taken from
 3 such orders; and payments shall be made pursuant
 4 to such orders, as if the compact had not been en-
 5 tered into; and orders issued in any such proceed-
 6 ings shall continue in effect until modified; termi-
 7 nated; superseded; or revoked by a duly authorized
 8 official, by a court of competent jurisdiction, or by
 9 operation of law.

10 (3) STATUTORY CONSTRUCTION.—Nothing in
 11 this subsection shall be deemed to prohibit the dis-
 12 continuance or modification of any such proceeding
 13 under the same terms and conditions and to the
 14 same extent that such proceeding could have been
 15 discontinued or modified if this title had not been
 16 enacted.

17 (c) NONABATEMENT OF ACTIONS.—No suit, action,
 18 or other proceeding commenced by or against the Bureau
 19 or by or against any individual in the official capacity of
 20 such individual as an officer of the Bureau shall abate by
 21 reason of the enactment of this title.

22 **SEC. 105. ADDITIONAL CONFORMING AMENDMENTS.**

23 (a) RECOMMENDED LEGISLATION.—After consulta-
 24 tion with Indian tribes, the appropriate committees of the
 25 Congress and the Director of the Office of Management

1 and Budget, the Secretary shall prepare and submit to the
 2 Congress recommended legislation containing technical
 3 and conforming amendments to reflect the changes made
 4 pursuant to this title.

5 (b) SUBMISSION TO THE CONGRESS.—Not later than
 6 120 days after the effective date of this title, the Secretary
 7 shall submit to the Congress the recommended legislation
 8 referred to in subsection (a).

9 **SEC. 106. AUTHORIZATION OF APPROPRIATIONS.**

10 There are authorized to be appropriated such sums
 11 as may be necessary to carry out this title.

12 **SEC. 107. EFFECTIVE DATE.**

13 This title shall take effect on the date of enactment
 14 of this Act.

15 **SEC. 108. SEPARABILITY.**

16 If a provision of this title or its application to any
 17 person or circumstance is held invalid, neither the remain-
 18 der of this title nor the application of the provision to
 19 other persons or circumstances shall be affected.

20 **SEC. 109. SUSPENSION OF CERTAIN ADMINISTRATIVE**
 21 **ACTIONS.**

22 (a) IN GENERAL.—Notwithstanding any other provi-
 23 sion of law, during the 2-year period beginning on the date
 24 of enactment of this Act, the Secretary shall suspend the
 25 implementation of all administrative activities that affect

1 the Bureau of Indian Affairs associated with reinventing
 2 government, national performance review, or other
 3 downsizing initiatives.

4 (b) ~~CONSIDERATION OF COMPACTS.~~—During the pe-
 5 riod specified in subsection (a), the reorganization com-
 6 pacts entered into under this title shall be deemed to sat-
 7 isfy the goals of the initiatives referred to in subsection
 8 (a).

9 **~~SEC. 110. STATUTORY CONSTRUCTION.~~**

10 Nothing in this title may be construed to alter or di-
 11 minish the Federal trust responsibility to Indian tribes,
 12 individual Indians, or Indians with trust allotments.

13 **~~TITLE II—AMENDMENT TO THE~~**
 14 **~~INDIAN SELF-DETERMINA-~~**
 15 **~~TION ACT~~**

16 **~~SEC. 201. BUDGET DEVELOPMENT.~~**

17 The Indian Self-Determination Act (25 U.S.C. 450f
 18 et seq.), as amended by the Tribal Self-Governance Act
 19 of 1994, is amended by adding at the end the following
 20 new title:

**“TITLE V—BUDGET
DEVELOPMENT**

**“SEC. 501. PARTICIPATION OF INDIAN TRIBES IN THE DE-
VELOPMENT OF BUDGET REQUESTS.**

“(a) BUDGET REQUESTS FOR THE BUREAU OF IN-
DIAN AFFAIRS.—Notwithstanding any other provision of
law, not later than 120 days after the date of enactment
of this title, the Secretary of the Interior shall establish
a program—

“(1) to provide information to Indian tribes
concerning the development of budget requests for
the Bureau of Indian Affairs that are submitted to
the President by the Secretary of the Interior for in-
clusion in the annual budget of the President sub-
mitted to the Congress pursuant to section 1108 of
title 31, United States Code; and

“(2) to ensure, to the maximum extent prac-
ticable, the participation by each Indian tribe in the
development of the budget requests referred to in
paragraph (1).

“(b) BUDGET REQUESTS FOR THE INDIAN HEALTH
SERVICE.—Notwithstanding any other provision of law,
not later than 120 days after the date of enactment of
this title, the Secretary of Health and Human Services
shall establish a program—

1 “(1) to provide information to Indian tribes
2 concerning the development of budget requests by
3 the Secretary of Health and Human Services for the
4 Indian Health Service that are submitted to the
5 President by the Secretary for inclusion in the an-
6 nual budget referred to in subsection (a)(1); and

7 “(2) to ensure, to the maximum extent prac-
8 ticable, the participation by each Indian tribe in the
9 development of the budget requests referred to in
10 paragraph (1).

11 “(c) REQUIREMENTS FOR PROGRAMS.—

12 “(1) IN GENERAL.—Each program established
13 under this section shall, to the maximum extent
14 practicable—

15 “(A) provide for the estimation of—

16 “(i) the funds authorized to be appro-
17 priated on an annual basis for the benefit
18 of Indian tribes; and

19 “(ii) for each Indian tribe, the portion
20 of the funds described in clause (i) that
21 will be provided for the benefit of the In-
22 dian tribe;

23 “(B) provide, for each Indian tribe—

“(i) the opportunity to establish priorities for using the estimated funds described in subparagraph (A)(ii); and

“(ii) flexibility in the design of tribal and Federal programs that receive Federal funds to best meet the needs of the community served by the Indian tribe; and

“(C) provide for the collection and dissemination of information that is necessary for effective planning, evaluation, and reporting by the Secretary of the Interior or the Secretary of Health and Human Services and Indian tribes concerning the comparative social and public health conditions of Indian communities (as defined and determined by the Secretary of the Interior and the Secretary of Health and Human Services) at local, regional, and national levels.

“(2) DUTIES OF THE SECRETARIES.—In carrying out the programs established under this section, the Secretary of the Interior and the Secretary of Health and Human Services shall—

“(A) use any information provided by Indian tribes concerning the priorities referred to in paragraph (1)(B);

1 “(B) support the creation of stable recur-
 2 ring base funding (as defined and determined
 3 by each such Secretary) for each Indian tribe;

4 “(C) seek to maintain stability in the plan-
 5 ning and allocation of the amounts provided for
 6 in the budget of the Bureau of Indian Affairs
 7 and the Indian Health Service for Indian tribes;
 8 and

9 “(D) assess the Federal programs or as-
 10 sistance provided to each Indian tribe to deter-
 11 mine—

12 “(i) the relative need for providing
 13 Federal funds to carry out each such pro-
 14 gram; and

15 “(ii) the amount of recurring base
 16 funding available to each Indian tribe to
 17 carry out each such program.

18 ~~“(3) CONTRACTS, GRANTS, AND ANNUAL FUND-~~
 19 ~~ING AGREEMENTS.—To provide, to the maximum ex-~~
 20 ~~tent practicable, for the full participation by the gov-~~
 21 ~~erning bodies of Indian tribes on an effective govern-~~
 22 ~~ment-to-government basis in carrying out the collec-~~
 23 ~~tion and sharing of information under this section,~~
 24 ~~the Secretary of the Interior or the Secretary of~~
 25 ~~Health and Human Services may—~~

1 “(A) enter into a self-determination con-
 2 tract with an Indian tribe or make a grant to
 3 an Indian tribe pursuant to section 102 or 103;

4 “(B) with respect to the Secretary of
 5 Health and Human Services, enter into a fund-
 6 ing agreement with a participating Indian tribe
 7 pursuant to title III; and

8 “(C) with respect to the Secretary of the
 9 Interior, enter into a funding agreement with a
 10 participating Indian tribe pursuant to title IV.

11 **“SEC. 502. ASSESSMENT METHODOLOGY.**

12 “(a) IN GENERAL.—Not later than 180 days after
 13 the date of enactment of this title, the Secretary shall,
 14 in cooperation with Indian tribes, and in accordance with
 15 the negotiated rulemaking procedures under subchapter
 16 III of chapter 5 of title 5, United States Code, promulgate
 17 standardized assessment methodologies to be used in ear-
 18 rying out any budget determination for the Bureau of In-
 19 dian Affairs concerning the levels of funding that are nec-
 20 essary to fund each program area (as defined and deter-
 21 mined by the Secretary) of the Bureau.

22 “(b) PARTICIPATION BY INDIAN TRIBES.—In carry-
 23 ing out subsection (a), the Secretary shall take such action
 24 as may be necessary to ensure, to the maximum extent
 25 practicable, the direct and active participation of Indian

1 tribes at the local, regional, and national levels in the ne-
 2 gotiated rulemaking process specified in subchapter III of
 3 chapter 5 of title 5, United States Code.

4 “(c) COMMITTEE.—

5 “(1) COMPOSITION.—The negotiated rule-
 6 making committee established pursuant to section
 7 565 of title 5, United States Code, to carry out sub-
 8 section (a) shall only be comprised of—

9 “(A) individuals who represent the Federal
 10 Government; and

11 “(B) individuals who represent Indian
 12 tribes.

13 “(2) REPRESENTATION BY INDIAN TRIBES.—A
 14 majority of the members of the committee referred
 15 to in paragraph (1) shall be individuals who rep-
 16 resent Indian tribes.

17 “(d) ADAPTATION OF PROCEDURES.—The Secretary
 18 shall adapt the negotiated rulemaking procedures carried
 19 out under this section in the same manner as the Sec-
 20 retary adapts, in accordance with section 407(e), the pro-
 21 cedures carried out pursuant to section 407.

22 **“SEC. 503. REPORTS TO THE CONGRESS.**

23 “(a) REPORT ON BUDGET NEEDS.—Not later than
 24 the earliest date after the date of promulgation of the reg-
 25 ulations under section 502 on which the Secretary of the

1 Interior submits a budget request to the President for in-
 2 clusion in the annual budget of the President submitted
 3 to the Congress pursuant to section 1108 of title 31, Unit-
 4 ed States Code, and annually thereafter, the Secretary
 5 shall prepare and submit to the President a report that—

6 “(1) describes the standardized methodologies
 7 that are the subject of the regulations promulgated
 8 pursuant to section 502; and

9 “(2) includes—

10 “(A) for each program area of the Bureau
 11 of Indian Affairs, an assessment of the level of
 12 funding that is necessary to fund the program
 13 area; and

14 “(B) for each Indian tribe served by a pro-
 15 gram area referred to in paragraph (2)—

16 “(i) an assessment of the level of
 17 funding that is necessary for each Indian
 18 tribe served by the program area;

19 “(ii) the total amount of funding nec-
 20 essary to cover all program areas with re-
 21 spect to which the tribe receives services
 22 (as determined by taking the aggregate of
 23 the applicable amounts determined under
 24 paragraph (3)); and

1 “(iii) a breakdown, for each program
2 area with respect to which the Indian tribe
3 receives service, of the amount determined
4 under clause (ii).

5 ~~“SEC. 504. AUTHORIZATION OF APPROPRIATIONS.~~

6 ~~“There are authorized to be appropriated such sums~~
7 ~~as may be necessary to carry out this title.”.~~

8 **~~TITLE III—REFORM OF THE REG-~~**
9 **~~ULATIONS OF THE BUREAU~~**
10 **~~OF INDIAN AFFAIRS~~**

11 ~~SEC. 301. BIA MANUAL.~~

12 ~~(a) IN GENERAL.—~~Not later than 180 days after the
13 ~~date of enactment of this Act, the Secretary shall—~~

14 ~~(1) conduct a review of all provisions of the~~
15 ~~BIA Manual;~~

16 ~~(2) promulgate as proposed regulations those~~
17 ~~provisions of the BIA Manual that the Secretary~~
18 ~~deems necessary for the efficient implementation of~~
19 ~~the Federal functions retained by the Bureau under~~
20 ~~the reorganization compacts authorized by this Act;~~
21 ~~and~~

22 ~~(3) revoke all provisions of the BIA Manual~~
23 ~~that are not promulgated as proposed regulations~~
24 ~~under paragraph (2).~~

1 (b) CONSULTATION WITH INDIAN TRIBES.—In car-
 2 rying out subsection (a), the Secretary shall, to the maxi-
 3 mum extent practicable, consult with Indian tribes in such
 4 manner as to provide for the full participation of Indian
 5 tribes.

6 **SEC. 302. TASK FORCE.**

7 (a) ESTABLISHMENT OF TASK FORCE.—

8 (1) IN GENERAL.—Not later than 90 days after
 9 the date of enactment of this Act, the Secretary
 10 shall establish a task force on regulatory reform (re-
 11 ferred to in this section as the “task force”).

12 (2) DUTIES.—The task force shall—

13 (A) review the regulations under title 25,
 14 Code of Federal Regulations; and

15 (B) make recommendations concerning the
 16 revision of the regulations.

17 (3) MEMBERSHIP.—The task force shall be
 18 composed of 16 members, including 12 members
 19 who are representatives of Indian tribes from each
 20 of the 12 areas served by area offices.

21 (4) INITIAL MEETING.—Not later than 60 days
 22 after the date on which all members of the task
 23 force have been appointed, the task force shall hold
 24 its first meeting.

1 ~~(5) MEETINGS.~~—The task force shall meet at
2 the call of the Chairperson.

3 ~~(6) QUORUM.~~—A majority of the members of
4 the task force shall constitute a quorum; but a lesser
5 number of members may hold hearings.

6 ~~(7) CHAIRPERSON.~~—The task force shall select
7 a Chairperson from among its members.

8 ~~(b) REPORTS.~~—

9 ~~(1) REPORTS TO SECRETARY.~~—The task force
10 shall submit to the Secretary such reports as the
11 Secretary determines to be appropriate.

12 ~~(2) REPORTS TO THE CONGRESS AND TO IN-~~
13 ~~DIAN TRIBES.~~—In addition to submitting the reports
14 described in paragraph (1), not later than 120 days
15 after its initial meeting, the task force shall prepare,
16 and submit to the Congress and to the governing
17 body of each Indian tribe, a report that includes—

18 ~~(A) the findings of the task force concern-~~
19 ~~ing the review conducted pursuant to subsection~~
20 ~~(a)(2)(A); and~~

21 ~~(B) the recommendations described in sub-~~
22 ~~section (a)(2)(B).~~

23 ~~(c) POWERS OF THE TASK FORCE.~~—

24 ~~(1) HEARINGS.~~—The task force may hold such
25 hearings, sit and act at such times and places, take

1 such testimony, and receive such evidence as the
 2 task force considers advisable to carry out the duties
 3 of the task force specified in subsection (a)(2).

4 ~~(2) INFORMATION FROM FEDERAL AGENCIES.—~~

5 The task force may secure directly from any Federal
 6 department or agency such information as the task
 7 force considers necessary to carry out the duties of
 8 the task force specified in subsection (a)(2).

9 ~~(3) POSTAL SERVICES.—~~The task force may

10 use the United States mails in the same manner and
 11 under the same conditions as other departments and
 12 agencies of the Federal Government.

13 ~~(4) GIFTS.—~~The task force may accept, use,

14 and dispose of gifts or donations of services or prop-
 15 erty.

16 ~~(d) TASK FORCE PERSONNEL MATTERS.—~~

17 ~~(1) COMPENSATION OF MEMBERS.—~~Each mem-

18 ber of the task force who is not an officer or em-
 19 ployee of the Federal Government shall be com-
 20 pensated at a rate equal to the daily equivalent of
 21 the annual rate of basic pay prescribed for level IV
 22 of the Executive Schedule under section 5315 of title
 23 5, United States Code, for each day (including travel
 24 time) during which such member is engaged in the
 25 performance of the duties of the task force. All

1 members of the task force who are officers or em-
 2 ployees of the United States shall serve without com-
 3 pensation in addition to that received for their serv-
 4 ices as officers or employees of the United States.

5 (2) TRAVEL EXPENSES.—The members of the
 6 task force shall be allowed travel expenses, including
 7 per diem in lieu of subsistence, at rates authorized
 8 for employees of agencies under subchapter I of
 9 chapter 57 of title 5, United States Code, while
 10 away from their homes or regular places of business
 11 in the performance of services for the task force.

12 (3) STAFF.—

13 (A) IN GENERAL.—The Chairperson of the
 14 task force may, without regard to the civil serv-
 15 ice laws, appoint and terminate such personnel
 16 as may be necessary to enable the task force to
 17 perform its duties.

18 (B) PROCUREMENT OF TEMPORARY AND
 19 INTERMITTENT SERVICES.—The Chairperson of
 20 the task force may procure temporary and
 21 intermittent service under section 3109(b) of
 22 title 5, United States Code, at rates for individ-
 23 uals that do not exceed the daily equivalent of
 24 the annual rate of basic pay prescribed for level

1 ~~V of the Executive Schedule under section 5316~~
 2 ~~of such title.~~

3 ~~(c) TERMINATION OF TASK FORCE.—The task force~~
 4 ~~shall terminate 30 days after the date on which the task~~
 5 ~~force submits its reports to the Congress and to Indian~~
 6 ~~tribes under subsection (b)(2).~~

7 ~~(f) EXEMPTION FROM FEDERAL ADVISORY COMMIT-~~
 8 ~~TEE ACT.—All of the activities of the task force conducted~~
 9 ~~under this title shall be exempt from the Federal Advisory~~
 10 ~~Committee Act (5 U.S.C. App.).~~

11 ~~(g) PROHIBITION.—Beginning on the date of enact-~~
 12 ~~ment of this Act, the Secretary may not—~~

13 ~~(1) promulgate any unpublished regulation or~~
 14 ~~agency guidance that affects Indian tribes; or~~

15 ~~(2) impose any nonregulatory requirement that~~
 16 ~~affects Indian tribes.~~

17 **SEC. 303. AUTHORIZATION OF APPROPRIATIONS.**

18 There are authorized to be appropriated such sums
 19 as may be necessary to carry out this title.

20 **SECTION 1. SHORT TITLE, PURPOSES, TABLE OF CON-**
 21 **TENTS, AND DEFINITIONS.**

22 ~~(a) SHORT TITLE.—This Act may be cited as the “Bu-~~
 23 ~~reau of Indian Affairs Reorganization Act of 1995”.~~

24 ~~(b) PURPOSES.—The purposes of this Act are—~~

1 (1) *to ensure the meaningful involvement of In-*
 2 *dian tribes as full negotiation partners with the Unit-*
 3 *ed States in all efforts to reorganize and restructure*
 4 *the Bureau of Indian Affairs; and*

5 (2) *to ensure the active participation by Indian*
 6 *tribes in the development of the budget requests for the*
 7 *Bureau of Indian Affairs and the Indian Health*
 8 *Services which are submitted to the President by the*
 9 *Secretary of the Interior and the Secretary of Health*
 10 *and Human Services for inclusion in the annual*
 11 *budget request submitted by the President to the Con-*
 12 *gress pursuant to section 1108 of title 31, United*
 13 *States Code.*

14 (c) *TABLE OF CONTENTS.—The table of contents for*
 15 *this Act is as follows:*

Sec. 1. Short title, purposes, table of contents, and definitions.

TITLE I—REORGANIZATION COMPACTS

Sec. 101. Reorganization of area offices.

Sec. 102. Reorganization of agency offices.

Sec. 103. Reorganization of central office.

Sec. 104. Authority to spend funds.

Sec. 105. Savings provisions.

Sec. 106. Additional conforming amendments.

Sec. 107. Authorization of appropriations.

Sec. 108. Effective date.

Sec. 109. Separability.

Sec. 110. Suspension of certain administrative actions.

Sec. 111. Statutory construction.

Sec. 112. Tribal authority recognized.

Sec. 113. Renegotiation authority.

Sec. 114. Disclosure of information.

TITLE II—AMENDMENT TO THE INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT

Sec. 201. Budget development.

TITLE III—REFORM OF THE REGULATIONS OF THE BUREAU OF
INDIAN AFFAIRS

Sec. 301. BIA Manual.

Sec. 302. Task force.

Sec. 303. Authorization of appropriations.

1 (d) *DEFINITIONS.*—*For purposes of this Act, the fol-*
2 *lowing definitions shall apply:*

3 (1) *AREA OFFICE.*—*The term “area office”*
4 *means 1 of the 12 area offices of the Bureau of Indian*
5 *Affairs in existence on the date of enactment of this*
6 *Act.*

7 (2) *AREA OFFICE PLAN.*—*The term “area office*
8 *plan” means a plan for the reorganization of an area*
9 *office negotiated by the Secretary and Indian tribes*
10 *pursuant to section 101.*

11 (3) *AGENCY OFFICE.*—*The term “agency office”*
12 *means an agency office of the Bureau of Indian Af-*
13 *fairs in existence on the date of enactment of this Act.*

14 (4) *AGENCY OFFICE PLAN.*—*The term “agency*
15 *office plan” means a plan for the reorganization of*
16 *an agency office negotiated by the Secretary and In-*
17 *dian tribes pursuant to section 102.*

18 (5) *BIA MANUAL.*—*The term “BIA Manual”*
19 *means the most recent edition of the Bureau of Indian*
20 *Affairs Manual issued by the Department of the Inte-*
21 *rior.*

1 (6) *BUREAU*.—The term “Bureau” means the
2 *Bureau of Indian Affairs*.

3 (7) *CENTRAL OFFICE*.—The term “central office”
4 means the Central Office of the Bureau, and includes
5 the offices of the Central Office that are housed in
6 Washington, D.C. and Albuquerque, New Mexico.

7 (8) *CENTRAL OFFICE PLAN*.—The term “central
8 office plan” means the plan for the reorganization of
9 the central office negotiated by the Secretary and In-
10 dian tribes pursuant to section 103.

11 (9) *DEPARTMENT*.—The term “Department”
12 means the Department of the Interior.

13 (10) *DIRECTOR*.—The term “Director” means,
14 with respect to an area office, the Director of the area
15 office.

16 (11) *FUNCTION*.—The term “function” means
17 any duty, obligation, power, authority, responsibility,
18 right, privilege, activity, or program.

19 (12) *INDIAN TRIBE*.—The term “Indian tribe”
20 has the same meaning as in section 4(e) of the Indian
21 Self-Determination and Education Assistance Act (25
22 U.S.C. 450b(e)).

23 (13) *SECRETARY*.—The term “Secretary” means
24 the Secretary of the Interior.

1 (14) *SUPERINTENDENT.*—*The term “Super-*
 2 *intendent” means the Superintendent of an agency of-*
 3 *fice.*

4 (15) *TRIBAL PRIORITY ALLOCATION ACCOUNT.*—
 5 *The term “tribal priority allocation account” means*
 6 *an account so designated by the Bureau, with respect*
 7 *to which program priorities and funding levels are es-*
 8 *tablished by individual Indian tribes.*

9 (16) *TRIBAL RECURRING BASE FUNDING.*—*The*
 10 *term “tribal recurring base funding” means recurring*
 11 *base funding (as defined and determined by the Sec-*
 12 *retary) for the tribal priority allocation accounts of*
 13 *an Indian tribe allocated to a tribe by the Bureau.*

14 ***TITLE I—REORGANIZATION*** 15 ***COMPACTS***

16 ***SEC. 101. REORGANIZATION OF AREA OFFICES.***

17 (a) *IN GENERAL.*—*Notwithstanding any other provi-*
 18 *sion of law—*

19 (1) *not later than 30 days after the date of en-*
 20 *actment of this Act, the Secretary shall notify in*
 21 *writing each Indian tribe served by an area office of*
 22 *the time and place of the initial prenegotiation meet-*
 23 *ing to establish a schedule for negotiations under this*
 24 *subsection; and*

1 (2) *not later than 150 days after the date of en-*
 2 *actment of this Act, the Secretary shall conclude nego-*
 3 *tiations with the Indian tribes served by each area of-*
 4 *fice on a reorganization plan for the area office.*

5 **(b) CONTENTS OF AREA OFFICE PLANS.—**

6 (1) *IN GENERAL.—Each area office plan that is*
 7 *prepared pursuant to this subsection shall provide for*
 8 *the organization of the area office covered under the*
 9 *plan. To the extent that a majority of the Indian*
 10 *tribes served by the area office do not exercise the op-*
 11 *tion to maintain current organizational structures,*
 12 *functions, or funding priorities pursuant to para-*
 13 *graph (3), the reorganization plan shall provide, with*
 14 *respect to the area office covered under the plan, for—*

15 (A) *the reorganization of the administrative*
 16 *structure of the area office;*

17 (B) *the reallocation of personnel (including*
 18 *determinations of office size and functions);*

19 (C) *the delegation of authority of the Sec-*
 20 *retary to the Director, Superintendents, or In-*
 21 *dian tribes;*

22 (D) *transfers of functions;*

23 (E) *the specification of functions—*

24 (i) *retained by the Bureau; or*

1 (ii) transferred to Indian tribes served
2 by the area office;

3 (F) the issuance of waivers or other authori-
4 ties by the Secretary so that functions and other
5 responsibilities of the Secretary may be carried
6 out by the area office or transferred to Indian
7 tribes;

8 (G) the promulgation of revised regulations
9 relating to the functions of the area office that
10 are performed by the area office or transferred to
11 Indian tribes;

12 (H) the reordering of funding priorities;
13 and

14 (I) a formula for the transfer, to the tribal
15 recurring base funding for each Indian tribe
16 served by the area office, of unexpended balances
17 of appropriations and other Federal funds made
18 available to the area office in connection with
19 any function transferred to Indian tribes pursu-
20 ant to subparagraph (E)(ii).

21 (2) *SHARE OF FUNDING.*—An area office plan
22 shall include, for each Indian tribe served by the area
23 office, a negotiated determination of the share of the
24 Indian tribe of the funds used by the area office on
25 an annual basis to support functions and services of

1 each tribe (hereafter in this subsection referred to as
2 the “tribal share”).

3 (3) *OPTION OF MAINTENANCE OF CURRENT STA-*
4 *TUS.*—At the option of a majority of the Indian tribes
5 served by an area office, a reorganization plan may
6 provide for the continuation of organizational struc-
7 tures, functions, or funding priorities of the area of-
8 fice that are substantially similar to those in effect at
9 the time of the negotiation of the area office plan.

10 (4) *APPROVAL OF AREA OFFICE PLAN BY INDIAN*
11 *TRIBES.*—

12 (A) *IN GENERAL.*—On the date on which
13 the negotiation of an area office plan is con-
14 cluded, the Secretary shall submit the plan to the
15 Indian tribes served by the area office for ap-
16 proval.

17 (B) *EFFECT OF FAILURE OF INDIAN TRIBE*
18 *TO APPROVE PLAN.*—If an Indian tribe served by
19 an area office fails to approve an area office
20 plan by the date that is 60 days after the Sec-
21 retary submits the plan pursuant to subpara-
22 graph (A) to the Indian tribes served by that of-
23 fice, the plan shall be considered to have been
24 disapproved by that Indian tribe.

1 (C) *REORGANIZATION COMPACT*.—If, by the
 2 date specified in subparagraph (B), a majority
 3 of the Indian tribes approve the area office plan
 4 by tribal resolution or other official act of the
 5 governing body of each Indian tribe involved, the
 6 Secretary shall enter into a reorganization com-
 7 pact pursuant to subsection (c).

8 (5) *SINGLE TRIBE AREA OFFICE*.—Not later than
 9 30 days after the date of enactment of this Act, the
 10 Secretary shall notify in writing an Indian tribe that
 11 is served by an area office that serves only that In-
 12 dian tribe of the time and place of the initial
 13 prenegotiation meeting to establish a schedule for ne-
 14 gotiations for an area office plan. If, by not later
 15 than 60 days after the date of enactment of this Act,
 16 an Indian tribe that is served by an area office that
 17 serves only that Indian tribe notifies the Secretary in
 18 writing that the Indian tribe elects to enter into nego-
 19 tiations with the Secretary to prepare a reorganiza-
 20 tion plan for the area office—

21 (A) not later than 150 days after the date
 22 of enactment of this Act, the Secretary shall con-
 23 clude such negotiations; and

24 (B) if, by the date that is 60 days after the
 25 date specified in subparagraph (A), the Indian

1 *tribe approves the area office plan by tribal reso-*
 2 *lution or other official act of the governing body*
 3 *of the Indian tribe, the Secretary shall enter into*
 4 *a reorganization compact with the Indian tribe*
 5 *to carry out the area office plan.*

6 (6) *OPTION TO TAKE TRIBAL SHARE.—*

7 (A) *IN GENERAL.—If—*

8 (i) *by the date specified in paragraph*
 9 *(4)(B), a majority of the Indian tribes*
 10 *served by an area office fail to approve an*
 11 *area office plan, an Indian tribe may, not*
 12 *later than 60 days after the date specified*
 13 *in paragraph (4)(B), notify the Secretary*
 14 *in writing that the Indian tribe elects to re-*
 15 *ceive directly the tribal share of the Indian*
 16 *tribe; or*

17 (ii) *by the date specified in paragraph*
 18 *(5)(B), the Indian tribe served by an area*
 19 *office fails to approve an area office plan,*
 20 *the Indian tribe may, not later than 60*
 21 *days after the date specified in paragraph*
 22 *(5)(B), notify the Secretary in writing that*
 23 *the Indian tribe elects to receive directly the*
 24 *tribal share of the Indian tribe.*

1 (B) *AGREEMENT.*—Not later than 30 days
 2 after the date on which the Secretary receives a
 3 notice under subparagraph (A), the Secretary
 4 shall enter into an agreement with the Indian
 5 tribe for the immediate and direct transfer to the
 6 Indian tribe of an amount equal to the tribal
 7 share, or if the agreement covers a period of less
 8 than 12 months, a prorated amount of the tribal
 9 share. The agreement shall include—

10 (i) a negotiated determination of the
 11 amount, if any, of residual Federal funds to
 12 be retained by the Secretary for the area of-
 13 fice that are minimally necessary to carry
 14 out trustee and other functions of the Fed-
 15 eral Government that are not delegable to
 16 the Indian tribes served by the area office;
 17 and

18 (ii) a negotiated description of the re-
 19 sponsibilities to be carried out by—

20 (I) the area office; and

21 (II) the Indian tribe.

22 (7) *SELF-DETERMINATION AND SELF-GOVERN-*
 23 *ANCE AUTHORITIES NOT AFFECTED.*—If an Indian
 24 tribe exercises the option to receive a tribal share of
 25 funds in accordance with paragraph (6), the exercise

1 of that option may not be construed to limit or re-
 2 strict any right of that tribe or any other tribe to
 3 receive funds under title I or IV of the Indian Self-
 4 Determination and Education Assistance Act (25
 5 U.S.C. 450 *et seq.*), and funds received under that Act
 6 may be included as part of the tribal share identified
 7 in paragraph (6).

8 (8) SECRETARIAL AUTHORITY.—If, by the date
 9 specified in subsection (c), a majority of the Indian
 10 tribes served by an area office fail to approve the plan
 11 pursuant to paragraph (4), the organizational struc-
 12 ture, functions, and funding priorities of the area of-
 13 fice in effect at the time of the negotiation of the area
 14 office plan shall be determined by the Secretary, in
 15 consultation with the Indian tribes served by that
 16 area office, and in a manner consistent with the exer-
 17 cise by any Indian tribe of the option to receive di-
 18 rectly the tribal share of the Indian tribe under para-
 19 graph (6).

20 (c) AREA OFFICE REORGANIZATION COMPACTS.—

21 (1) IN GENERAL.—Not later than 30 days after
 22 the date on which a majority of the Indian tribes
 23 served by the area office that is the subject of a reor-
 24 ganization plan have approved the plan pursuant to
 25 subsection (b)(4), the Secretary shall enter into an

1 *area office reorganization compact with the Indian*
 2 *tribes that have approved the plan to carry out that*
 3 *plan (hereafter in this subsection referred to as the*
 4 *“area office reorganization compact”).*

5 (2) *PROHIBITION AGAINST CERTAIN LIMITA-*
 6 *TIONS.—With respect to an Indian tribe that is not*
 7 *a party to an area office reorganization compact en-*
 8 *tered into by the Secretary under this subsection,*
 9 *nothing in this section may limit or reduce the level*
 10 *of any service or funding that the Indian tribe would*
 11 *otherwise receive pursuant to applicable Federal law*
 12 *(including title I or IV of the Indian Self-Determina-*
 13 *tion and Education Assistance Act (25 U.S.C. 450 et*
 14 *seq.)).*

15 **SEC. 102. REORGANIZATION OF AGENCY OFFICES.**

16 (a) *IN GENERAL.—Notwithstanding any other provi-*
 17 *sion of law—*

18 (1) *not later than 30 days after the date of en-*
 19 *actment of this Act, the Secretary shall notify each*
 20 *Indian tribe in writing of the time and place of the*
 21 *initial prenegotiation meeting to establish a schedule*
 22 *for negotiations under this subsection; and*

23 (2) *not later than 150 days after the date of en-*
 24 *actment of this Act, the Secretary, acting through the*
 25 *Superintendent (or a designee of the Superintendent)*

1 of each agency office, shall conclude negotiations with
 2 the Indian tribes served by each agency office on an
 3 agency office plan for each agency office.

4 **(b) CONTENTS OF AGENCY OFFICE PLANS.—**

5 (1) *IN GENERAL.*—Each agency office plan that
 6 is prepared by the Secretary pursuant to this sub-
 7 section shall provide for the organization of the agen-
 8 cy office covered under the plan. To the extent that a
 9 majority of the Indian tribes served by the agency of-
 10 fice do not exercise the option to maintain current or-
 11 ganizational structures, functions, or funding prior-
 12 ities pursuant to paragraph (3), the agency office
 13 plan shall provide, with respect to the agency office
 14 covered under the agency office plan, for—

15 (A) the reorganization of the administrative
 16 structure of the agency office;

17 (B) the reallocation of personnel (including
 18 determinations of office size and functions);

19 (C) the delegation of authority of the Sec-
 20 retary to the Superintendent or Indian tribes;

21 (D) transfers of functions;

22 (E) the specification of functions—

23 (i) retained by the Bureau; or

24 (ii) transferred to Indian tribes served
 25 by the agency office;

1 (F) the issuance of waivers or other authori-
 2 ties by the Secretary so that functions and other
 3 responsibilities of the Secretary may be carried
 4 out by the agency office or transferred to Indian
 5 tribes;

6 (G) the promulgation of revised regulations
 7 relating to the functions of the agency office that
 8 are carried by the agency office or transferred to
 9 Indian tribes;

10 (H) the reordering of funding priorities;
 11 and

12 (I) a formula for the transfer, to the tribal
 13 recurring base funding for each Indian tribe
 14 served by the agency office, of unexpended bal-
 15 ances of appropriations and other Federal funds
 16 made available to the agency office in connection
 17 with any function transferred to Indian tribes
 18 pursuant to subparagraph (E)(ii).

19 (2) *SHARE OF FUNDING.*—An agency office plan
 20 shall include, for each Indian tribe served by the
 21 agency office, a negotiated determination of the share
 22 of the Indian tribe of the funds used by the agency
 23 office on an annual basis to support functions and
 24 services of the tribe (hereafter in this subsection re-
 25 ferred to as the “tribal share”).

1 (3) *OPTION OF MAINTENANCE OF CURRENT STA-*
 2 *TUS.—At the option of a majority of the Indian tribes*
 3 *served by an agency office, an agency office plan may*
 4 *provide for the continuation of organizational struc-*
 5 *tures, functions, or funding priorities of the agency*
 6 *office that are substantially similar to those in effect*
 7 *at the time of the development of the agency office*
 8 *plan.*

9 (4) *APPROVAL OF AGENCY OFFICE PLAN BY IN-*
 10 *DIAN TRIBES.—*

11 (A) *IN GENERAL.—On the date on which*
 12 *the negotiation of an agency office plan is con-*
 13 *cluded, the Secretary shall submit the agency of-*
 14 *fice plan to the Indian tribes served by the agen-*
 15 *cy office for approval.*

16 (B) *EFFECT OF FAILURE OF INDIAN TRIBE*
 17 *TO APPROVE PLAN.—If an Indian tribe served by*
 18 *an agency office fails to approve an agency office*
 19 *plan by the date that is 60 days after the Sec-*
 20 *retary submits the plan pursuant to subpara-*
 21 *graph (A) to the Indian tribes served by that of-*
 22 *fice, the plan shall be considered to have been*
 23 *disapproved by that Indian tribe.*

24 (C) *REORGANIZATION COMPACT.—If, by the*
 25 *date specified in subparagraph (B), a majority*

1 *of the Indian tribes approve the agency office*
 2 *plan by a tribal resolution or other official act*
 3 *of the governing body of each Indian tribe in-*
 4 *volved, the Secretary shall enter into a reorga-*
 5 *nization compact pursuant to subsection (c).*

6 (5) *SINGLE TRIBE AGENCY OFFICE.*—*Not later*
 7 *than 30 days after the date of enactment of this Act,*
 8 *the Secretary shall notify in writing an Indian tribe*
 9 *that is served by an agency office that serves only that*
 10 *Indian tribe of the time and place of the initial*
 11 *prenegotiation meeting to establish a schedule for ne-*
 12 *gotiations for an agency office plan. If, by not later*
 13 *than 60 days after the date of enactment of this Act,*
 14 *an Indian tribe that is served by an agency office*
 15 *that serves only that Indian tribe notifies the Sec-*
 16 *retary in writing that the Indian tribe elects to enter*
 17 *into negotiations with the Secretary to prepare a re-*
 18 *organization plan for the agency office—*

19 (A) *not later than 150 days after the date*
 20 *of enactment of this Act, the Secretary shall con-*
 21 *clude such negotiations; and*

22 (B) *if, by the date that is 60 days after the*
 23 *date specified in subparagraph (A), the Indian*
 24 *tribe approves the agency office plan by tribal*
 25 *resolution or other official act of the governing*

body of the Indian tribe, the Secretary shall enter into a reorganization compact with the Indian tribe to carry out the area office plan.

(6) *OPTION TO TAKE TRIBAL SHARE.*—

(A) *IN GENERAL.*—If—

(i) by the date specified in paragraph (4)(B), a majority of the Indian tribes served by an agency office fail to approve an agency office plan, an Indian tribe may, not later than 60 days after the date specified in paragraph (4)(B), notify the Secretary in writing that the Indian tribe elects to receive directly the tribal share of the Indian tribe; or

(ii) by the date specified in paragraph (5)(B), the Indian tribe served by an agency office fails to approve an agency office plan, the Indian tribe may, not later than 60 days after the date specified in paragraph (5)(B), notify the Secretary in writing that the Indian tribe elects to receive directly the tribal share of the Indian tribe.

(B) *AGREEMENT.*—Not later than 30 days after the date on which the Secretary receives a notice under subparagraph (A), the Secretary

1 *shall enter into an agreement with the Indian*
 2 *tribe for the immediate and direct transfer to the*
 3 *Indian tribe of an amount equal to the tribal*
 4 *share, or if the agreement covers a period of less*
 5 *than 12 months, a prorated amount of the tribal*
 6 *share. The agreement shall include—*

7 *(i) a negotiated determination of the*
 8 *amount, if any, of residual Federal funds to*
 9 *be retained by the Secretary for the agency*
 10 *office that are minimally necessary to carry*
 11 *out trustee and other functions of the Fed-*
 12 *eral Government that are not delegable to*
 13 *the Indian tribes served by the agency office;*
 14 *and*

15 *(ii) a negotiated description of the re-*
 16 *sponsibilities to be carried out by—*

17 *(I) the agency office; and*

18 *(II) the Indian tribe.*

19 *(7) SELF-DETERMINATION AND SELF-GOVERN-*
 20 *ANCE AUTHORITIES NOT AFFECTED.—If an Indian*
 21 *tribe exercises the option to receive a tribal share of*
 22 *funds in accordance with paragraph (6), the exercise*
 23 *of that option may not be construed to limit or re-*
 24 *strict any right of that tribe or any other tribe to re-*
 25 *ceive funds under title I or IV of the Indian Self-De-*

1 *termination and Education Assistance Act (25 U.S.C.*
 2 *450 et seq.), and funds received under that Act may*
 3 *be included as part of the tribal share identified in*
 4 *paragraph (6).*

5 (8) *SECRETARIAL AUTHORITY.—If, by the date*
 6 *specified in subsection (c), a majority of the Indian*
 7 *tribes served by an agency office fail to approve the*
 8 *plan pursuant to paragraph (4), the organizational*
 9 *structure, functions, and funding priorities of the*
 10 *agency office in effect at the time of the negotiation*
 11 *of the agency office plan shall be determined by the*
 12 *Secretary, in consultation with the Indian tribes*
 13 *served by that agency office, and in a manner consist-*
 14 *ent with the exercise by any Indian tribe of the op-*
 15 *tion to receive directly the tribal share of the Indian*
 16 *tribe under paragraph (6).*

17 (c) *AGENCY OFFICE REORGANIZATION COMPACTS.—*

18 (1) *IN GENERAL.—Not later than 30 days after*
 19 *the date on which a majority of the Indian tribes*
 20 *served by an agency office that is the subject of an*
 21 *agency office plan have approved that plan pursuant*
 22 *to subsection (b)(4), the Secretary shall enter into a*
 23 *reorganization compact with the Indian tribes to*
 24 *carry out the agency office plan (hereafter in this sub-*

1 section referred to as the “agency office reorganization
2 compact”).

3 (2) *PROHIBITION AGAINST CERTAIN LIMITA-*
4 *TIONS.*—With respect to an Indian tribe that is not
5 a party to an agency office reorganization compact
6 entered into under this subsection, nothing in this sec-
7 tion may limit or reduce the level of any service or
8 funding that the Indian tribe would otherwise receive
9 pursuant to applicable Federal law (including title I
10 or IV of the Indian Self-Determination and Edu-
11 cation Assistance Act (25 U.S.C. 450 et seq.)).

12 **SEC. 103. REORGANIZATION OF CENTRAL OFFICE.**

13 (a) *IN GENERAL.*—Notwithstanding any other provi-
14 sion of law—

15 (1) not later than 30 days after the date of en-
16 actment of this Act, the Secretary shall notify in
17 writing each Indian tribe of the time and place of the
18 initial prenegotiation meeting to establish a schedule
19 for negotiations under this subsection; and

20 (2) not later than 150 days after the date of en-
21 actment of this Act, the Secretary shall conclude nego-
22 tiations with Indian tribes on a reorganization plan
23 for the central office. The Secretary shall negotiate on
24 an area-by-area basis with a representative from each
25 of the Indian tribes in each area, to determine the

1 *appropriate allocation of personnel and funding made*
 2 *available to the central office to serve the area and*
 3 *agency offices and Indian tribes in each area office.*

4 ***(b) CONTENT OF CENTRAL OFFICE PLAN.—***

5 ***(1) IN GENERAL.—****The central office plan shall*
 6 *provide for determinations on the basis of the negotia-*
 7 *tions described in subsection (a) concerning—*

8 ***(A) which portion of the funds made avail-***
 9 ***able to the Secretary for the central office shall—***

10 ***(i) be used to support the area and***
 11 ***agency offices in each area; or***

12 ***(ii) be considered funds that may be***
 13 ***transferred directly to Indian tribes in each***
 14 ***area pursuant to a formula developed pur-***
 15 ***suant to paragraph (2)(J); and***

16 ***(B) the allocation of the personnel of the***
 17 ***central office to provide support to the area and***
 18 ***agency offices.***

19 ***(2) REALLOCATION OF FUNDS AND PERSON-***
 20 ***NEL.—****In developing the central office plan, to the ex-*
 21 *tent that the Secretary and the Indian tribes do not*
 22 *exercise the option to maintain current organiza-*
 23 *tional structures, functions, or funding priorities, the*
 24 *central office plan shall provide, to the extent nec-*

1 *essary to accommodate the determinations made*
2 *under paragraph (1), for—*

3 *(A) the reorganization of the administrative*
4 *structure of the central office;*

5 *(B) the reallocation of personnel (including*
6 *determinations of office size and functions);*

7 *(C) the delegation of authority of the Sec-*
8 *retary carried out through the central office to*
9 *the Directors, Superintendents, or Indian tribes;*

10 *(D) transfers of functions;*

11 *(E) the specification of functions—*

12 *(i) retained by the central office; or*

13 *(ii) transferred to area offices, agency*
14 *offices or Indian tribes;*

15 *(F) the issuance of waivers or other authori-*
16 *ties by the Secretary so that functions and other*
17 *responsibilities of the Secretary may be carried*
18 *out by the central office or transferred to area of-*
19 *fices, agency offices, or Indian tribes;*

20 *(G) the promulgation of revised regulations*
21 *relating to the functions of the central office that*
22 *are carried by the central office or transferred to*
23 *area offices, agency offices, or Indian tribes;*

24 *(H) the reordering of funding priorities;*

1 (I) allocation formulas to provide for the re-
 2 maining services to be provided to the area and
 3 agency offices and Indian tribes by the central
 4 office; and

5 (J) with respect to the transfer of funds to
 6 the area and agency offices and Indian tribes in
 7 each area, a formula, negotiated with the tribal
 8 representatives identified in subsection (a), for
 9 the transfer to the Indian tribes of all or a por-
 10 tion of the funds described in paragraph
 11 (1)(A)(ii).

12 (3) *SHARE OF FUNDING.*—The central office plan
 13 shall include, for each Indian tribe, a negotiated de-
 14 termination of the share of the Indian tribe (hereafter
 15 in this subsection referred to as the “tribal share”) of
 16 the funds used by the central office on an annual
 17 basis to support functions and services of the Indian
 18 tribe and the personnel and services identified in sub-
 19 section (a), after any funds identified in paragraph
 20 (1)(A)(ii) have been allocated directly to Indian
 21 tribes.

22 (4) *OPTION TO TAKE TRIBAL SHARE.*—

23 (A) *IN GENERAL.*—An Indian tribe may,
 24 not later than 60 days after the date specified in
 25 subsection (c), notify the Secretary in writing

1 *that the Indian tribe elects to receive directly the*
2 *tribal share for that Indian tribe determined*
3 *under paragraph (3) if that Indian tribe—*

4 *(i) receives a tribal share of an area of-*
5 *fice under section 101(b) and also receives a*
6 *tribal share of an agency office under sec-*
7 *tion 102(b); or*

8 *(ii) receives a share pursuant to title I*
9 *or IV of the Indian Self-Determination and*
10 *Education Assistance Act (25 U.S.C. 450 et*
11 *seq.).*

12 *(B) AGREEMENT.—Not later than 30 days*
13 *after the date on which an Indian tribe provides*
14 *written notification to the Secretary under sub-*
15 *paragraph (A), the Secretary shall enter into an*
16 *agreement with the Indian tribe for the imme-*
17 *diate and direct transfer to the Indian tribe of*
18 *an amount equal to the tribal share, or if the pe-*
19 *riod covered by the agreement is less than 12*
20 *months, a prorated amount of the tribal share.*
21 *The agreement shall include—*

22 *(i) a negotiated determination of the*
23 *amount of residual Federal funds to be re-*
24 *tained by the Secretary for the central office*
25 *that are minimally necessary to carry out*

1 trustee and other functions of the Federal
 2 Government that are not delegable to the In-
 3 dian tribes served by the central office; and

4 (ii) a negotiated description of the re-
 5 sponsibilities to be carried out by—

6 (I) the central office; and

7 (II) the Indian tribe.

8 (5) *SELF-DETERMINATION AND SELF-GOVERN-*
 9 *ANCE AUTHORITIES NOT AFFECTED.*—If an Indian

10 tribe exercises the option to receive a tribal share of
 11 funds in accordance with paragraph (4), the exercise
 12 of that option may not be construed to limit or re-
 13 strict any right of that tribe or any other tribe to re-
 14 ceive funds under title I or IV of the Indian Self-De-
 15 termination and Education Assistance Act (25 U.S.C.
 16 450 et seq.), and funds received under that Act may
 17 be included as part of the tribal share identified in
 18 paragraph (4).

19 (c) *CENTRAL OFFICE REORGANIZATION COMPACTS.*—

20 (1) *IN GENERAL.*—Not later than 90 days after
 21 the Secretary has concluded a negotiation of a central
 22 office plan pursuant to subsection (a), the Secretary
 23 shall, for each area office, enter into a central office
 24 reorganization compact with the Indian tribes in that
 25 area to implement the central office plan (hereafter in

1 *this subsection referred to as the “central office reor-*
 2 *ganization compact”). The Secretary may not imple-*
 3 *ment the component of a central office plan relating*
 4 *to an area until such time as a majority of the In-*
 5 *Indian tribes in that area have entered into a central*
 6 *office reorganization compact. If a majority of the In-*
 7 *Indian tribes in an area do not enter into a central of-*
 8 *fice reorganization compact with the Secretary pursu-*
 9 *ant to this paragraph, the organizational structure,*
 10 *functions, and funding priorities of the central office*
 11 *relating to the area and agency offices and Indian*
 12 *tribes in that area and in effect at the time of the ne-*
 13 *gotiation of the central office plan shall be determined*
 14 *by the Secretary, in consultation with the Indian*
 15 *tribes served by each area office, and in a manner*
 16 *that is consistent with the exercise by any Indian*
 17 *tribe of the option to receive directly the tribal share*
 18 *of the Indian tribe under subsection (b)(4).*

19 (2) *COORDINATION WITH AREA AND AGENCY OF-*
 20 *FICE PLANS.—Each central office reorganization com-*
 21 *pact entered into by the Secretary under this sub-*
 22 *section shall specify that in the event the Secretary*
 23 *determines that a central office reorganization com-*
 24 *pact is inconsistent with a related area office reorga-*
 25 *nization compact entered into under section 101(c) or*

1 *a related agency office reorganization compact entered*
2 *into under section 102(c), the Secretary, in negotia-*
3 *tion with the Indian tribes that are parties to the*
4 *central office reorganization compact, shall amend the*
5 *compact to make such modifications as are necessary*
6 *to ensure consistency with the applicable area or*
7 *agency office plan.*

8 **SEC. 104. AUTHORITY TO SPEND FUNDS.**

9 *Each Indian tribe that receives funds under this title*
10 *shall administer and expend those funds in a manner con-*
11 *sistent with the authorities provided to Indian tribes under*
12 *the Indian Self-Determination and Education Assistance*
13 *Act (25 U.S.C. 450 et seq.).*

14 **SEC. 105. SAVINGS PROVISIONS.**

15 (a) *IN GENERAL.*—*Notwithstanding any other provi-*
16 *sion of this title, all orders, determinations, rules, regula-*
17 *tions, permits, agreements, grants, contracts, certificates, li-*
18 *censes, registrations, privileges, and other administrative*
19 *actions—*

20 *(1) that have been issued, made, granted, or al-*
21 *lowed to become effective by the President, any Fed-*
22 *eral agency or official thereof, or by a court of com-*
23 *petent jurisdiction, in the performance of any func-*
24 *tion that is transferred to Indian tribes pursuant to*

1 *a reorganization compact that the Secretary enters*
 2 *into pursuant to section 101, 102, or 103; and*

3 *(2) that are in effect on the effective date of the*
 4 *reorganization compact, or were final before the effec-*
 5 *tive date of the reorganization compact and are to be-*
 6 *come effective on or after such date;*
 7 *shall continue in effect according to their terms until modi-*
 8 *fied, terminated, superseded, set aside, or revoked in accord-*
 9 *ance with law by the President, the Secretary, or other au-*
 10 *thorized official, a court of competent jurisdiction, or by*
 11 *operation of law.*

12 *(b) PROCEEDINGS NOT AFFECTED.—*

13 *(1) IN GENERAL.—The provisions of a reorga-*
 14 *nization compact that the Secretary enters into pur-*
 15 *suant to section 101, 102, or 103 shall not affect any*
 16 *proceedings, including notices of proposed rule-*
 17 *making, or any application for any license, permit,*
 18 *certificate, or financial assistance pending before the*
 19 *Bureau at the time the reorganization compact takes*
 20 *effect, with respect to the functions transferred by the*
 21 *reorganization compact.*

22 *(2) CONTINUATION OF PROCEEDINGS.—The pro-*
 23 *ceedings and applications referred to in paragraph*
 24 *(1) shall be continued. Orders shall be issued in such*
 25 *proceedings, appeals shall be taken from such orders,*

1 *and payments shall be made pursuant to such orders,*
 2 *as if the compact had not been entered into, and or-*
 3 *ders issued in any such proceedings shall continue in*
 4 *effect until modified, terminated, superseded, or re-*
 5 *voked by a duly authorized official, by a court of com-*
 6 *petent jurisdiction, or by operation of law.*

7 (3) *STATUTORY CONSTRUCTION.—Nothing in this*
 8 *subsection shall be deemed to prohibit the discontinu-*
 9 *ance or modification of any such proceeding under*
 10 *the same terms and conditions and to the same extent*
 11 *that such proceeding could have been discontinued or*
 12 *modified if this title had not been enacted.*

13 (c) *NONABATEMENT OF ACTIONS.—No suit, action, or*
 14 *other proceeding commenced by or against the Bureau or*
 15 *by or against any individual in the official capacity of such*
 16 *individual as an officer of the Bureau shall abate by reason*
 17 *of the enactment of this title.*

18 **SEC. 106. ADDITIONAL CONFORMING AMENDMENTS.**

19 (a) *RECOMMENDED LEGISLATION.—After consultation*
 20 *with Indian tribes and the appropriate committees of the*
 21 *Congress, the Secretary shall prepare and submit to the*
 22 *Congress appropriate recommendations for legislation con-*
 23 *taining technical and conforming amendments to reflect the*
 24 *changes made pursuant to this title.*

1 (b) *SUBMISSION TO THE CONGRESS.*—Not later than
 2 120 days after the effective date of this title, the Secretary
 3 shall submit to the Congress the recommended legislation
 4 referred to in subsection (a).

5 ***SEC. 107. AUTHORIZATION OF APPROPRIATIONS.***

6 There are authorized to be appropriated such sums as
 7 may be necessary to carry out this title.

8 ***SEC. 108. EFFECTIVE DATE.***

9 This title shall take effect on the date of enactment of
 10 this Act.

11 ***SEC. 109. SEPARABILITY.***

12 If a provision of this title or its application to any
 13 person or circumstance is held invalid, neither the remain-
 14 der of this title nor the application of the provision to other
 15 persons or circumstances shall be affected.

16 ***SEC. 110. SUSPENSION OF CERTAIN ADMINISTRATIVE AC-***
 17 ***TIONS.***

18 (a) *IN GENERAL.*—Notwithstanding any other provi-
 19 sion of law, during the 2-year period beginning on the date
 20 of enactment of this Act, the Secretary shall suspend the
 21 implementation of all administrative activities that affect
 22 the Bureau associated with reinventing government, na-
 23 tional performance review, or other down sizing initiatives
 24 of the executive branch of the Federal Government.

1 (b) *CONSIDERATION OF COMPACTS.*—During the pe-
 2 riod specified in subsection (a), the reorganization compacts
 3 entered into under this title shall be deemed to satisfy the
 4 goals of the initiatives referred to in subsection (a).

5 **SEC. 111. STATUTORY CONSTRUCTION.**

6 Nothing in this title may be construed to alter or di-
 7 minish the Federal trust responsibility to Indian tribes, in-
 8 dividual Indians, or Indians with trust allotments.

9 **SEC. 112. TRIBAL AUTHORITY RECOGNIZED.**

10 Nothing in this title may be construed to prohibit or
 11 limit the capacity of 2 or more Indian tribes to authorize,
 12 by tribal resolution or other official act of the governing
 13 body of each Indian tribe involved, a group of Indian tribes
 14 to exercise any authority granted to an Indian tribe under
 15 this title, except that the approval of an area office or agen-
 16 cy office reorganization plan under sections 101(b)(4) and
 17 102(b)(4), and the entering into a central office reorganiza-
 18 tion compact under section 103(c)(1), shall be authorized
 19 by the separate tribal resolution or other official act of the
 20 governing body of each Indian tribe involved.

21 **SEC. 113. RENEGOTIATION AUTHORITY.**

22 The Indian tribes served by an agency or area office
 23 may annually exercise any authorities that the Indian
 24 tribes are authorized to exercise under this title during any
 25 calendar year that begins after the date of enactment of this

1 *Act, including authorities relating to the negotiation of re-*
 2 *organization plans and the election to receive tribal shares.*
 3 *In any case in which an Indian tribe exercises an authority*
 4 *pursuant to the preceding sentence, the timeframes set forth*
 5 *in this title shall be calculated from the annual anniversary*
 6 *date of the date of enactment of this Act.*

7 ***SEC. 114. DISCLOSURE OF INFORMATION.***

8 (a) *IN GENERAL.*—Upon entering into negotiations re-
 9 *quired under sections 101, 102, and 103, and in a timely*
 10 *manner throughout that negotiation process, the Secretary*
 11 *shall provide to Indian tribes the budgetary, structural, ad-*
 12 *ministrative, and legal information that is necessary for the*
 13 *negotiated reorganization of the agency offices, area offices,*
 14 *and central office.*

15 (b) *TECHNICAL ASSISTANCE.*—Upon the request of an
 16 *Indian tribe, the Secretary shall provide such technical as-*
 17 *sistance as may be required to interpret the information*
 18 *provided under subsection (a).*

1 ***TITLE II—AMENDMENT TO THE***
 2 ***INDIAN SELF-DETERMINA-***
 3 ***TION AND EDUCATION AS-***
 4 ***SISTANCE ACT***

5 ***SEC. 201. BUDGET DEVELOPMENT.***

6 *The Indian Self-Determination and Education Assist-*
 7 *ance Act (25 U.S.C. 450 et seq.) is amended by adding at*
 8 *the end the following new title:*

9 ***“TITLE V—BUDGET***
 10 ***DEVELOPMENT***

11 ***“SEC. 501. PARTICIPATION OF INDIAN TRIBES IN THE DE-***
 12 ***VELOPMENT OF BUDGET REQUESTS.***

13 *“(a) BUDGET REQUESTS FOR THE BUREAU OF INDIAN*
 14 *AFFAIRS.—Notwithstanding any other provision of law, not*
 15 *later than 120 days after the date of enactment of this title,*
 16 *the Secretary of the Interior shall establish a program—*

17 *“(1) to provide information to Indian tribes con-*
 18 *cerning the development of budget requests for the Bu-*
 19 *reau of Indian Affairs that are submitted to the*
 20 *President by the Secretary of the Interior for inclu-*
 21 *sion in the annual budget of the President submitted*
 22 *to the Congress pursuant to section 1108 of title 31,*
 23 *United States Code; and*

24 *“(2) to ensure, to the maximum extent prac-*
 25 *ticable, the participation by each Indian tribe in the*

1 *development of the budget requests referred to in para-*
 2 *graph (1).*

3 “(b) *BUDGET REQUESTS FOR THE INDIAN HEALTH*
 4 *SERVICE.*—*Notwithstanding any other provision of law, not*
 5 *later than 120 days after the date of enactment of this title,*
 6 *the Secretary of Health and Human Services shall establish*
 7 *a program—*

8 “(1) *to provide information to Indian tribes con-*
 9 *cerning the development of budget requests by the Sec-*
 10 *retary of Health and Human Services for the Indian*
 11 *Health Service that are submitted to the President by*
 12 *the Secretary of Health and Human Services for in-*
 13 *clusion in the annual budget referred to in subsection*
 14 *(a)(1); and*

15 “(2) *to ensure, to the maximum extent prac-*
 16 *ticable, the participation by each Indian tribe in the*
 17 *development of the budget requests referred to in para-*
 18 *graph (1).*

19 “(c) *REQUIREMENTS FOR PROGRAMS.*—

20 “(1) *IN GENERAL.*—*Each program established*
 21 *under this section shall, to the maximum extent prac-*
 22 *ticable—*

23 “(A) *provide for the estimation of—*

1 “(i) the funds authorized to be appro-
2 priated on an annual basis for the benefit
3 of Indian tribes; and

4 “(ii) for each Indian tribe, the portion
5 of the funds described in clause (i) that will
6 be provided for the benefit of the Indian
7 tribe;

8 “(B) provide, for each Indian tribe—

9 “(i) the opportunity to establish prior-
10 ities for using the estimated funds described
11 in subparagraph (A)(ii); and

12 “(ii) the authority and flexibility to
13 design tribal and Federal programs that re-
14 ceive Federal funds to best meet the needs of
15 the community served by the Indian tribe;
16 and

17 “(C) provide for the collection and dissemi-
18 nation of information that is necessary for effec-
19 tive planning, evaluation, and reporting by the
20 Secretary of the Interior or the Secretary of
21 Health and Human Services and Indian tribes
22 concerning the comparative social and public
23 health conditions of Indian communities (as de-
24 fined and determined by the Secretary of the In-

1 *terior and the Secretary of Health and Human*
2 *Services) at local, regional, and national levels.*

3 “(2) *DUTIES OF THE SECRETARIES.*—*In carry-*
4 *ing out the programs established under this section,*
5 *the Secretary of the Interior and the Secretary of*
6 *Health and Human Services shall—*

7 “(A) *use any information provided by In-*
8 *dian tribes concerning the priorities referred to*
9 *in paragraph (1)(B);*

10 “(B) *support the creation of stable recur-*
11 *ring base funding (as defined and determined by*
12 *each such Secretary) for each Indian tribe;*

13 “(C) *seek to maintain stability in the plan-*
14 *ning and allocation of the amounts provided for*
15 *in the budget of the Bureau of Indian Affairs*
16 *and the Indian Health Service for Indian tribes;*
17 *and*

18 “(D) *assess the Federal programs or assist-*
19 *ance provided to each Indian tribe to deter-*
20 *mine—*

21 “(i) *the relative need for providing*
22 *Federal funds to carry out each such pro-*
23 *gram; and*

1 “(ii) the amount of recurring base
2 funding available to each Indian tribe to
3 carry out each such program.

4 “(3) *CONTRACTS, GRANTS, AND ANNUAL FUNDING*
5 *AGREEMENTS.*—To provide, to the maximum extent
6 practicable, for the full participation by the governing
7 bodies of Indian tribes on an effective government-to-
8 government basis in carrying out the collection and
9 sharing of information under this section, the Sec-
10 retary of the Interior or the Secretary of Health and
11 Human Services may—

12 “(A) enter into a self-determination con-
13 tract with an Indian tribe or make a grant to
14 an Indian tribe pursuant to section 102 or 103;

15 “(B) with respect to the Secretary of Health
16 and Human Services, enter into a funding
17 agreement with a participating Indian tribe
18 pursuant to title III; and

19 “(C) with respect to the Secretary of the In-
20 terior, enter into a funding agreement with a
21 participating Indian tribe pursuant to title IV.

22 **“SEC. 502. ASSESSMENT METHODOLOGY.**

23 “(a) *IN GENERAL.*—Not later than 180 days after the
24 date of enactment of this title, the Secretary shall, in co-
25 operation with Indian tribes, and in accordance with the

1 *negotiated rulemaking procedures under subchapter III of*
 2 *chapter 5 of title 5, United States Code (as in effect on*
 3 *the date of enactment of this title), promulgate standardized*
 4 *assessment methodologies to be used in carrying out any*
 5 *budget determination for the Bureau concerning the levels*
 6 *of funding that are necessary to fund each program area*
 7 *(as defined and determined by the Secretary) of the Bureau.*

8 “(b) *PARTICIPATION BY INDIAN TRIBES.*—*In carrying*
 9 *out subsection (a), the Secretary shall take such action as*
 10 *may be necessary to ensure, to the maximum extent prac-*
 11 *ticable, the direct and active participation of Indian tribes*
 12 *at the local, regional, and national levels in the negotiated*
 13 *rulemaking process specified in subchapter III of chapter*
 14 *5 of title 5, United States Code.*

15 “(c) *COMMITTEE.*—

16 “(1) *COMPOSITION.*—*The negotiated rulemaking*
 17 *committee established pursuant to the requirements of*
 18 *section 565 of title 5, United States Code (as in effect*
 19 *on the date of enactment of this title), to carry out*
 20 *subsection (a) shall only be comprised of—*

21 “(A) *individuals who represent the Federal*
 22 *Government; and*

23 “(B) *individuals who represent Indian*
 24 *tribes.*

1 “(2) *REPRESENTATION BY INDIAN TRIBES.*—A
 2 *majority of the members of the committee referred to*
 3 *in paragraph (1) shall be individuals who represent*
 4 *Indian tribes.*

5 “(d) *ADAPTATION OF PROCEDURES.*—*The Secretary*
 6 *shall adapt the negotiated rulemaking procedures carried*
 7 *out under this section in the same manner as the Secretary*
 8 *adapts, in accordance with section 407(c), the procedures*
 9 *carried out pursuant to section 407.*

10 **“SEC. 503. REPORTS TO THE CONGRESS.**

11 *“At the earliest practicable date after the date of pro-*
 12 *mulgation of the regulations under section 502 on which*
 13 *the Secretary of the Interior submits a budget request to*
 14 *the President for inclusion in the annual budget of the*
 15 *President submitted to the Congress pursuant to section*
 16 *1108 of title 31, United States Code, and annually there-*
 17 *after, the Secretary shall prepare and submit to the Presi-*
 18 *dent for inclusion in the annual budget submitted to the*
 19 *Congress, a report that—*

20 “(1) *describes the standardized methodologies*
 21 *that are the subject of the regulations promulgated*
 22 *pursuant to section 502; and*

23 “(2) *includes—*

24 “(A) *for each program area of the Bureau*
 25 *of Indian Affairs, an assessment of the level of*

1 *funding that is necessary to fund the program*
2 *area; and*

3 *“(B) for each Indian tribe served by a pro-*
4 *gram area referred to in paragraph (2)—*

5 *“(i) an assessment of the level of fund-*
6 *ing that is necessary for each Indian tribe*
7 *served by the program area;*

8 *“(ii) the total amount of funding nec-*
9 *essary to cover all program areas with re-*
10 *spect to which the tribe receives services (as*
11 *determined by taking the aggregate of the*
12 *applicable amounts determined under para-*
13 *graph (3)); and*

14 *“(iii) a breakdown, for each program*
15 *area with respect to which the Indian tribe*
16 *receives service, of the amount determined*
17 *under clause (ii).*

18 ***“SEC. 504. AUTHORIZATION OF APPROPRIATIONS.***

19 *“There are authorized to be appropriated such sums*
20 *as may be necessary to carry out this title.”.*

1 ***TITLE III—REFORM OF THE REG-***
 2 ***ULATIONS OF THE BUREAU***
 3 ***OF INDIAN AFFAIRS***

4 ***SEC. 301. BIA MANUAL.***

5 *(a) IN GENERAL.—Not later than 180 days after the*
 6 *date of enactment of this Act, the Secretary shall—*

7 *(1) conduct a review of all provisions of the BIA*
 8 *Manual;*

9 *(2) promulgate as proposed regulations those*
 10 *provisions of the BIA Manual that the Secretary*
 11 *deems necessary for the efficient implementation of*
 12 *the Federal functions retained by the Bureau under*
 13 *the reorganization compacts authorized by this Act;*
 14 *and*

15 *(3) revoke all provisions of the BIA Manual that*
 16 *are not promulgated as proposed regulations under*
 17 *paragraph (2).*

18 *(b) CONSULTATION WITH INDIAN TRIBES.—In carry-*
 19 *ing out subsection (a), the Secretary shall, to the maximum*
 20 *extent practicable, consult with Indian tribes in such man-*
 21 *ner as to provide for the full participation of Indian tribes.*

22 ***SEC. 302. TASK FORCE.***

23 *(a) ESTABLISHMENT OF TASK FORCE.—*

24 *(1) IN GENERAL.—Not later than 90 days after*
 25 *the date of enactment of this Act, the Secretary shall*

1 *establish a task force on regulatory reform (hereafter*
2 *in this section referred to as the “task force”).*

3 (2) *DUTIES.—The task force shall—*

4 (A) *review the regulations under title 25,*
5 *Code of Federal Regulations; and*

6 (B) *make recommendations concerning the*
7 *revision of the regulations.*

8 (3) *MEMBERSHIP.—The task force shall be com-*
9 *posed of 16 members, appointed by the Secretary, in-*
10 *cluding 12 members who are representatives of Indian*
11 *tribes from each of the 12 areas served by area offices.*

12 (4) *INITIAL MEETING.—Not later than 60 days*
13 *after the date on which all members of the task force*
14 *have been appointed, the task force shall hold its first*
15 *meeting.*

16 (5) *MEETINGS.—The task force shall meet at the*
17 *call of the Chairperson.*

18 (6) *QUORUM.—A majority of the members of the*
19 *task force shall constitute a quorum, but a lesser*
20 *number of members may hold hearings.*

21 (7) *CHAIRPERSON.—The task force shall select a*
22 *Chairperson from among its members.*

23 (b) *REPORTS.—*

1 (1) *REPORTS TO SECRETARY.*—*The task force*
 2 *shall submit to the Secretary such reports as the Sec-*
 3 *retary determines to be appropriate.*

4 (2) *REPORT TO THE CONGRESS AND TO INDIAN*
 5 *TRIBES.*—*In addition to submitting the reports de-*
 6 *scribed in paragraph (1), not later than 120 days*
 7 *after its initial meeting, the task force shall prepare,*
 8 *and submit to the Congress and to the governing body*
 9 *of each Indian tribe, a report that includes—*

10 (A) *the findings of the task force concerning*
 11 *the review conducted pursuant to subsection*
 12 *(a)(2)(A); and*

13 (B) *the recommendations described in sub-*
 14 *section (a)(2)(B).*

15 (c) *POWERS OF THE TASK FORCE.*—

16 (1) *HEARINGS.*—*The task force may hold such*
 17 *hearings, sit and act at such times and places, take*
 18 *such testimony, and receive such evidence as the task*
 19 *force considers advisable to carry out the duties of the*
 20 *task force specified in subsection (a)(2).*

21 (2) *INFORMATION FROM FEDERAL AGENCIES.*—
 22 *The task force may secure directly from any Federal*
 23 *department or agency such information as the task*
 24 *force considers necessary to carry out the duties of the*
 25 *task force specified in subsection (a)(2).*

1 (3) *POSTAL SERVICES.*—*The task force may use*
 2 *the United States mails in the same manner and*
 3 *under the same conditions as other departments and*
 4 *agencies of the Federal Government.*

5 (4) *GIFTS.*—*The task force may accept, use, and*
 6 *dispose of gifts or donations of services or property.*

7 (d) *TASK FORCE PERSONNEL MATTERS.*—

8 (1) *COMPENSATION OF MEMBERS.*—*Members of*
 9 *the task force who are not officers or employees of the*
 10 *Federal Government shall serve without compensa-*
 11 *tion, except for travel expenses, as provided under*
 12 *paragraph (2). Members of the task force who are offi-*
 13 *cers or employees of the United States shall serve*
 14 *without compensation in addition to that received for*
 15 *their services as officers or employees of the United*
 16 *States.*

17 (2) *TRAVEL EXPENSES.*—*The members of the*
 18 *task force shall be allowed travel expenses, including*
 19 *per diem in lieu of subsistence, at rates authorized for*
 20 *employees of agencies under subchapter I of chapter*
 21 *57 of title 5, United States Code, while away from*
 22 *their homes or regular places of business in the per-*
 23 *formance of services for the task force.*

24 (3) *STAFF.*—

1 (A) *IN GENERAL.*—*The Chairperson of the*
 2 *task force may, without regard to the civil serv-*
 3 *ice laws, appoint and terminate such personnel*
 4 *as may be necessary to enable the task force to*
 5 *perform its duties.*

6 (B) *PROCUREMENT OF TEMPORARY AND*
 7 *INTERMITTENT SERVICES.*—*The Chairperson of*
 8 *the task force may procure temporary and inter-*
 9 *mittent service under section 3109(b) of title 5,*
 10 *United States Code, at rates for individuals that*
 11 *do not exceed the daily equivalent of the annual*
 12 *rate of basic pay prescribed under GS–13 of the*
 13 *General Schedule established under section 5332*
 14 *of title 5, United States Code.*

15 (e) *TERMINATION OF TASK FORCE.*—*The task force*
 16 *shall terminate 30 days after the date on which the task*
 17 *force submits its reports to the Congress and to Indian*
 18 *tribes under subsection (b)(2).*

19 (f) *EXEMPTION FROM FEDERAL ADVISORY COMMIT-*
 20 *TEE ACT.*—*All of the activities of the task force conducted*
 21 *under this title shall be exempt from the Federal Advisory*
 22 *Committee Act (5 U.S.C. App.).*

23 (g) *PROHIBITION.*—*Beginning on the date of enact-*
 24 *ment of this Act, no provision of any internal manual or*
 25 *handbook or other written procedure purporting to govern*

1 *the conduct of the Department in relation to Indian tribes*
 2 *shall be binding upon any Indian tribe unless that provi-*
 3 *sion has been promulgated as a final regulation in accord-*
 4 *ance with applicable Federal law.*

5 ***SEC. 303. AUTHORIZATION OF APPROPRIATIONS.***

6 *There are authorized to be appropriated such sums as*
 7 *may be necessary to carry out this title.*



S 814 RS—2

S 814 RS—3

S 814 RS—4

S 814 RS—5

S 814 RS—6

Calendar No. 329
104TH CONGRESS
2D Session
S. 814
[Report No. 104-227]

A BILL

To provide for the reorganization of the Bureau of
Indian Affairs, and for other purposes.

JANUARY 26, 1996

Reported with an amendment